

# **APPENDIX D**

## **PROCESSING NOTICES AND PLANS OF OPERATIONS UNDER THE 3809 REGULATIONS**

The regulations for surface management of public lands under the U. S. mining laws (43 CFR 3809) require all operators on public lands to notify the BLM of proposed exploration or mining activities. If the proposed activities would cause surface disturbance of five acres or less per year, a written notice or letter must be provided at least fifteen days before starting work. An approved plan of operations is required prior to beginning operations which would disturb more than five acres of public land per year. An approved plan of operations is also required for any operation, except casual use, within designated Areas of Critical Environmental Concern, areas designated as part of the National Wilderness Preservation System, and areas designated as closed to motorized vehicle use. The standard procedures used in processing notices and plans of operations are summarized below.

### **PROCESSING A NOTICE**

Although no special form or format is necessary in developing a notice, the operator is required to submit certain information to the appropriate BLM District Office under 43 CFR 3809.1-3(c). To assist the operator in meeting these requirements, a form (Figure D-1) is available for use by the operator in developing a notice.

Notices received by the BLM typically are processed according to the steps listed in Table D-1.

**TABLE D-1**  
**STEPS IN PROCESSING A NOTICE OF PLANNED MINING ACTIVITIES**

<b>Responsible Officer</b>	<b>Step</b>	<b>Action</b>
Mineral Specialist District/Area	1.	Confirms that operations under a notice will not disturb in excess of five acres during the calendar year. Reviews the notice to ensure that the operator has submitted all the information required under 43 CFR 3809.1-3(c).  Determines if unnecessary or undue degradation would result from the proposed operation. Determines if consultation with the operator is desired when construction of access routes with inside cuts in excess of three feet are proposed.
	2.	Notifies the operator of deficiencies (if any) in the filing and requests the needed information. Reminds the operator that operations shall not commence until 15 days after the notice requirements have been met.  If the notice is in order and meets the requirements as specified in 43 CFR 3809.1-3, the case file is forwarded to the appropriate Area Manager with findings of review.
Area Manager	3.	Reviews the notice and determines if additional staff assistance is needed.  Cultural, paleontological, and endangered species inventories are not required under a notice. However, if known cultural or paleontological resources may be impacted by the proposed activities, the operator must be informed of the potential problem. In such a case, the regulations as described in 43 CFR 3809.2-2(e)(2) shall be emphasized.
District/Area Mineral Specialist	4.	Prepares letter acknowledging receipt of the submitted notice and states that the notice is in order and complete.
District/Area Mineral Specialist and/or Compliance Specialist	5.	Completes a minimum of one compliance inspection of each notice. Determines if the operation is causing unnecessary or undue degradation of the lands and notifies the operator and Area Manager of such findings. Documents all inspections and places the findings in the case file.

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**NOTICE**  
**43 CFR 3809**  
**(Disturbance of Five Acres or Less)**

Surface Management of Public Lands  
 Under the U.S. Mining Laws

No form necessary by the following format may be of assistance.

**Timing:** Written notification of planned mineral activities shall be made to the appropriate BLM District Office at least 15 days before starting work.

**District:** ☐ Butte ☐ Lewistown ☐ Miles City (see attached map)

**Operator/Mining Claimant**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Local Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_

**Mining Claims**

Name \_\_\_\_\_

BLM Serial No. \_\_\_\_\_

Name \_\_\_\_\_

BLM Serial No. \_\_\_\_\_

Name \_\_\_\_\_

BLM Serial No. \_\_\_\_\_

No Mining Claims Involved

**Location**

Twp. \_\_\_\_\_, Rge. \_\_\_\_\_, Sec. \_\_\_\_\_ (A map also would be helpful)

**Date Operations Will Start** \_\_\_\_\_

**Duration of Activities** \_\_\_\_\_

**Type of Operation** \_\_\_\_\_

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Describe the proposed activities and their location in sufficient detail to locate the activities on the ground. Attach extra pages or a map when necessary.

**Access**

☐ On existing roads (description and location) \_\_\_\_\_

☐ Road to be constructed (location and type of equipment to be used.) \_\_\_\_\_

(A map also would be helpful.)

Check if:

☐ Construction of access will involve cuts of 3 feet or more on the inside edge.

I hereby declare that I, or persons I have authorized to do so, will complete reclamation of all disturbed sites during the course of my operations to the standards described in 43 CFR 3809.1-3(d) and that all reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands during operations.

Note: You must notify the District Manager of when reclamation has been completed (43 CFR 3809.1-3e).

\_\_\_\_\_  
Signature of claimant or operator

\_\_\_\_\_  
Date

## PROCESSING A PLAN OF OPERATIONS

Although no special form or format is necessary in developing a plan of operations, the operator is required to submit certain information to the appropriate BLM District Office (43 CFR 3809.1-5). To assist the operator in meeting these requirements, an outline (Figure D-2) is available for use by the operator in developing a plan.

In processing plans or modification of plans, special consideration is given to those operations necessary for timely compliance with requirements of federal or state laws (such as assessment work). Pending final approval of the plan, the District Manager shall approve any operations necessary for timely compliance with those requirements, subject to terms and conditions needed to prevent unnecessary or undue degradation.

In processing a plan, the steps listed in Table D-2 typically are followed.

**TABLE D-2**  
**STEPS IN PROCESSING A PLAN OF OPERATIONS**

<b>Responsible Officer</b>	<b>Step</b>	<b>Action</b>
Mineral Specialist District/Area	1.	Promptly acknowledges receipt of the plan of operations.
	2.	Reviews and determines if the plan meets the requirements as specified in 43 CFR 3809.1-5.  If the plan is found to be deficient, notifies the operator of the deficiencies and requests the needed information.  If the plan is in order and meets the requirements of 43 CFR 3809.1-5 the case file is forwarded to the appropriate Area Manager for further processing.
Area Manager	3.	Reviews the plan of operations and determines if additional staff assistance is needed in preparation of the environmental assessment.
	4.	Requests input from the staff archaeologist and wildlife biologist concerning cultural resources and endangered species.
District/Area Mineral Specialist, Staff Specialists, Environmental Coordinator	5.	Completes and forwards to the Area Manager the environmental assessment and other appropriate field investigation, inventories, and reports, including recommendations on bond requirements.
Area Manager	6.	Provides plan approval and bonding recommendations to District Manager. Recommends mitigating measures which reflect and correct an identified action (or lack of action) and are required to prevent identified unnecessary or undue degradation of lands. If no unnecessary or undue degradation of the lands would occur as proposed in the submitted plan of operations, then no further mitigating measures may be applied to the plan.

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Responsible Officer	Step	Action
District Manager	7.	Within 30 days of receipt of a plan of operations, the District Manager must notify the operator that:
	(a)	The plan is approved; or
	(b)	The proposed action (or lack of action) would cause unnecessary or undue degradation of the lands, and identified additions or modifications of the plan are necessary before the plan can be approved; or
	(c)	An additional, specified amount of time, not to exceed an additional 60 days, is needed to complete the review of the submitted plan. (The only reason that would justify additional time is substantial public interest expressed in the plan. The additional time is needed to consider public comments on the environmental assessment. Also, days during which the area of operations is inaccessible for inspection shall not be counted when computing the additional 60 day period); or
	(d)	The plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency; or
District/Area Mineral Specialist and/or Compliance Specialist	(e)	The plan cannot be approved until the Bureau has complied with Section 106 of the National Historic Preservation Act or Section 7 of the Endangered Species Act.
	8.	If the plan of operations is not approved, assures that all necessary actions, as described in Steps 2-5 above, are completed and documented. The only justification for rejection of a plan of operations is the unavoidable or unmitigable conflict with an endangered species.
	9.	Completes a minimum of one compliance inspection on each approved plan. Determines if the operation is causing unnecessary or undue degradation of the lands and notifies the Area Manager of such findings. Documents all inspections and places the findings in the case file.
District/Area Mineral Specialist and/or Compliance Specialist	10.	When reclamation on part of the operation is completed and at the request of the operator, conducts a compliance inspection and documents the findings and places the findings in the case file. If reclamation has been satisfactorily completed, recommends to the Area Manager a reduction of bond, if appropriate.
		Upon completion of operations, conducts a final compliance inspection. If all necessary actions as described in the plan have been satisfactorily completed, recommends release of bond, if any, and closes case.

**OUTLINE FOR PLANS OF OPERATIONS  
SUBMITTED UNDER THE  
43 CFR 3809 Regulations**

- I. Claimant Information
    - A. Name
    - B. Address
    - C. Telephone Number
  - II. Operator Information (If different than claimant)
    - A. Name
    - B. Address
    - C. Telephone Number
  - III. Mining Claim Information (If no claims locate, describe project area by township, range and section)
    - A. Claim Name(s)
    - B. Claim Type (Lode, Millsite, etc.)
    - C. BLM Serial Number(s)
    - D. Location of Claim(s) (Township, Range, Section)
  - IV. Proposed Operations
    - A. Period of Operation (estimated beginning and completion dates)
    - B. Access Routes (A description and location of existing access routes to be used and a description and location of any access routes to be constructed and the type of equipment to be used in their construction)
    - C. Existing Disturbance and Structures (A description and location of surface disturbances existing prior to January 1, 1981, structures, facilities, etc.)
    - D. Proposed Operations (A description of the type of operations and how they will be conducted, including the locations and size of areas where surface disturbances, structures, facilities, etc., are proposed. Calculate the total acreage proposed for disturbance. One acre = 43,560 sq. ft.)
  - V. Proposed Reclamation
    - A. Reclamation and Other Measure to Prevent Unnecessary or Undue Degradation (A description of the proposed reclamation procedures to reclaim disturbed areas resulting from the proposed operations, including the standards listed in section 3809.1-3 (d) of the surface management regulations, and other measures to be taken to prevent unnecessary or undue degradation of the lands).
    - B. Extended Period of Nonoperation (A description of the measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submitted, this information is to be submitted whenever an extended period of nonoperation is anticipated).
  - VI. Maps and/or Sketches
    - A. Map/Sketch Requirements (A map, preferably a topographic map, or sketch showing surface disturbances existing prior to January 1, 1981, structures, facilities, etc., and the locations and size of areas where surface disturbances are proposed, including existing and/or proposed routes of access, aircraft landing areas, etc.)
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### Notice to Operators

1. Approval of a submitted plan of operations is required from the BLM prior to commencing operations. The BLM will promptly acknowledge receipt of a submitted plan and will notify the operator of the status of the plan within 30 days of receipt of the plan.
2. Approval of a plan of operations does not constitute certification of ownership to any person named as owner of any listed mining claim, nor does approval constitute recognition of the validity of any mining claim named in an approved plan.
3. Generally, information that could be considered proprietary or confidential is not necessary to fulfill plan of operations requirements. However, information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information should be attached to a separate page and cited in the text of the plan of operations. This information will be filed separately and will not be available for public inspection.
4. Failure of an operator to file a plan of operations, as required by the 43 CFR 3809 regulations, will subject the operator to being served a notice of noncompliance or enjoined from the continuation of such operations by a court order until such time as a plan is filed with the BLM.

